

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHAUN RUSHING,

Plaintiff,

-against-

WESTERN MICHIGAN UNIVERSITY,

Defendant.

21-CV-9121 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who resides in Grand Rapids, Michigan, proceeds *pro se* in this action. He seeks leave to proceed *in forma pauperis* (IFP). For the following reasons, this action is transferred to the United States District Court for the Western District of Michigan.

DISCUSSION

Under the general venue provision, a civil action may be brought in:

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

28 U.S.C. § 1391(b).

A “natural person” resides in the district where the person is domiciled, and an “entity with the capacity to sue and be sued” resides in any judicial district where it is subject to personal jurisdiction with respect to the civil action in question. *See* 28 U.S.C. § 1391(c)(1), (2).

Plaintiff alleges that he was wrongfully arrested for trespassing on the property of Western Michigan University, and charged with stalking for something that he “did not do.” (ECF 2 at 1.) He states that this happened because he was “discriminated against.” (*Id.*) Plaintiff's claims arose on the campus of Western Michigan University, which is in Kalamazoo,

Michigan, and he names Western Michigan University as the sole defendant. Because it appears from the allegations of the complaint that all of the events giving rise to Plaintiff's claims arose outside this district, and nothing suggests that Western Michigan University can be considered a resident of this district, venue is not proper in this Court under § 1391(b)(1), (2).

Kalamazoo, Michigan, is in the Western District of Michigan. *See* 28 U.S.C. § 102(b)(1). Because Plaintiff's claims arose there, venue lies in the Western District of Michigan, 28 U.S.C. § 1391(b)(2), and this action is transferred to the United States District Court for the Western District of Michigan, 28 U.S.C. § 1406(a).¹

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the Western District of Michigan. Whether Plaintiff should be permitted to proceed further without prepayment of fees is a determination to be made by the transferee court. A summons will not issue from this Court. This order closes the case in the Southern District of New York.

The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose

¹ Because of Plaintiff's filing of dozens of "indisputably meritless" actions in the United States District Court for the Western District of Michigan, he is restricted from proceeding in that court without prepaying the filing fees. *See Rushing v. Wyoming Police Dep't*, No. 07-CV-0711, Doc. 5 (W.D. Mich. July 31, 2007); *In re RESTRICTED FILER Shaun Rushing*, No. 1:21-MC-2021, Doc. 40 (W.D. Mich. Mar. 18, 2020). Plaintiff has also filed meritless actions in this district, and he was recently directed to show cause why he should not be barred from filing new actions IFP. *See Rushing v. Extra Space Storage*, ECF 1:21-CV-9113, 4 (S.D.N.Y. Nov. 5, 2021).

of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). The Clerk of Court is directed to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: November 8, 2021
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge